

# SENATE RECORD VOTE ANALYSIS

105th Congress  
2nd Session

Vote No. 286

September 24, 1998, 10:16 a.m.  
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## FAA REAUTHORIZATION/Independent Review for Suspended Pilot Licenses

**SUBJECT:** Wendell Ford National Air Transportation System Improvement Act . . . S. 2279. Inhofe amendment No. 3620.

### ACTION: AMENDMENT REJECTED, 46-51

**SYNOPSIS:** As reported, S. 2279, the Wendell Ford National Air Transportation System Improvement Act, will reauthorize most programs of the Federal Aviation Administration (FAA) for 2 years and will provide funding for aviation safety and security improvements. It will also add slot exemptions at major airports in New York, Chicago, and Washington and will enact limited exemptions to the perimeter rule.

**The Inhofe amendment** would create an expedited, independent review process for pilots who have had their licenses (airman certificates) revoked by the FAA under its emergency revocation power. Under current law, the FAA may immediately revoke a pilot's license if it believes that such revocation is needed to preserve safety in air transportation or air commerce. Such revocation stays in effect while the FAA pursues its case to revoke the license permanently. Emergency revocations are for indefinite periods of time. The Inhofe amendment would change current law by allowing a pilot who has had his licence taken under emergency authority to request a hearing before the National Transportation Safety Board (NTSB) within 48 hours of that action. The NTSB would have to grant a hearing within 48 hours, and would have to issue a decision within 5 days of a hearing request. If the NTSB determined that an emergency situation did not exist, the license would be returned. The FAA could still continue revocation proceedings.

**Those favoring** the amendment contended:

The Inhofe amendment would protect pilots from having their licenses unfairly revoked by the FAA under its emergency revocation power. This power has usually been used fairly, but in some cases it has not. When unfair actions have been taken, pilots have had little recourse to protect themselves. Ted Stewart's case is illustrative. Ted Stewart is a Boeing 767 captain for American

(See other side)

YEAS (46)			NAYS (51)			NOT VOTING (3)	
Republicans (45 or 82%)	Democrats (1 or 2%)		Republicans (10 or 18%)	Democrats (41 or 98%)		Republicans (0)	Democrats (3)
Abraham	Hutchison	Breaux	D'Amato	Akaka	Johnson		Glenn <sup>-2</sup>
Allard	Inhofe		DeWine	Baucus	Kennedy		Moseley-Braun <sup>-2</sup>
Ashcroft	Jeffords		Gorton	Biden	Kerrey		Wellstone <sup>-4AN</sup>
Bennett	Kempthorne		Gramm	Bingaman	Kerry		
Bond	Kyl		Gregg	Boxer	Kohl		
Brownback	Lott		Hagel	Bryan	Landrieu		
Burns	Lugar		Mack	Bumpers	Lautenberg		
Campbell	McConnell		McCain	Byrd	Leahy		
Chafee	Murkowski		Roth	Cleland	Levin		
Coats	Nickles		Thompson	Conrad	Lieberman		
Cochran	Roberts			Daschle	Mikulski		
Collins	Santorum			Dodd	Moynihan		
Coverdell	Sessions			Dorgan	Murray		
Craig	Shelby			Durbin	Reed		
Domenici	Smith, Bob			Feingold	Reid		
Enzi	Smith, Gordon			Feinstein	Robb		
Faircloth	Snowe			Ford	Rockefeller		
Frist	Specter			Graham	Sarbanes		
Grams	Stevens			Harkin	Torricelli		
Grassley	Thomas			Hollings	Wyden		
Hatch	Thurmond			Inouye			
Helms	Warner						
Hutchinson							

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

Airlines. He had been flying for American Airlines as a pilot for more than 12 years without any complaints being registered against him or his flying when the FAA decided to exercise its emergency authority to revoke his license. After 12 years of perfect flying there obviously was not any immediate compelling need to deny him the ability to work. Eventually, after a 2-month wait, the NTSB ruled on the FAA's allegations, and it decided entirely in Mr. Stewart's favor. United Airlines continued to pay him during those 2 months even though he was not allowed to work; not all pilots are so lucky. Many pilots who have had their licenses revoked with emergency authority have been denied a chance to earn a living during the pendency of their cases. In an even more outrageous case, an overzealous FAA regulator pulled Bob Hoover's license. Many of our colleagues personally know Mr. Hoover, who is regarded by the aviation community as the best pilot in America. If he is not fit to fly then no one is. In that case, the FAA relented after it received letters of outrage from literally thousands of pilots. We do not object to the FAA having emergency revocation authority. It should have that authority, and it should exercise it whenever it believes necessary. However, it can make, and has made, mistakes. Under such circumstances, pilots should not have to wait months on end to get them corrected. They should have an independent avenue for quickly deciding whether some emergency exists to warrant pulling their licenses while cases against them are considered. The Inhofe amendment would create such a process. This change would not create any great costs--the FAA is usually right in its decisions, and it is not often challenged. Also, we imagine that if FAA bureaucrats knew that they could not get away with misusing their authority they would be much less likely to misuse it. Agreeing to this amendment will protect America's pilots from being treated unfairly by bureaucrats who know that their decisions cannot be challenged. This protection is needed. We urge our colleagues to support this amendment.

**Those opposing** the amendment contended:

The sponsor of this amendment is a very accomplished pilot and is very involved in aviation issues. He knows the concerns of other aviators, so when he tells us that FAA emergency revocation authority has become a pressing concern among pilots we know that he is correct. Still, at least until we have had the opportunity to examine this issue more closely, we must oppose his amendment out of extreme caution. Our fear is that the unintentional result of the amendment would be to make it possible for pilots who are unsafe to get back their licenses, albeit temporarily, after they have been revoked. We know that the FAA, the NTSB, and the General Accounting Office oppose this amendment as unnecessary. The FAA tells us that any person subject to an emergency revocation can immediately go to the United States Court of Appeals, which will usually rule within 5 days to 7 days. Most pilots, by choice, do not follow that route. We further note that the FAA uses its emergency authority sparingly. Between 1993 and 1997 it used it an average of just 2.55 percent of the time when it initiated actions against pilots. When it has used it, it has almost always been justified: between 1990 and 1997, it was reversed in just 2 percent of the cases in which it issued emergency orders of revocation. Given these facts, at this point we cannot really justify creating a new bureaucratic process that could strain resources and unintentionally allow some unsafe pilots to continue to fly. We must support the motion to table, but we